

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 298 of 1990****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil
judge ?

=====

GUJ STATE ROAD TRANSPORT CORPN - Appellant(s)**Versus****SHANKARLAL BHAGWANDAS PAREKH & 1 - Defendant(s)**

=====

Appearance :

MR HARDIK C RAWAL for Appellant,
MR JR DAVE for Respondent No.1,
NOTICE SERVED for Respondent No.2.

=====

CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 08/08/2007****ORAL JUDGMENT**

1. Mr.Hardik C. Rawal, learned counsel for the appellant and
Mr.J.R. Dave, learned counsel for the respondents -
claimants.

2. Gujarat State Road Transport Corporation, being aggrieved by the award dtd.12/6/1989 passed by the Motor Accident Claim Tribunal (Auxiliary) in Motor Accident Claim Petition No.969 of 1986, is before this Court with a submission that the tribunal was unjustified in making an inflated award in favour of the claimant.
3. As the appellant is confining its challenge to the monetary liability only, it is not necessary for this Court to detail out other facts.
4. After taking me through paragraph Nos.12 and 13 of the judgement of the tribunal, the learned counsel for the appellant submitted that the tribunal found that the monthly income of the claimant could be Rs.1500=00 per month and the tribunal has also found that the permanent partial disability would be to the extent of 9%. According to the learned counsel, if the permanent partial disability is to the extent of 9% of Rs.1500=00 per month, the monthly loss of income would be Rs.135=00 per month or Rs.1620=00 per year. He submits that applying multiplier of 15, the claimant would only be entitled to a sum of Rs.24,300=00 under the head of loss of future income.
5. After the argument was over, Mr.J.R. Dave, learned

counsel for the respondent No.1 was asked to argue the matter. He submitted that the tribunal was absolutely justified in making the award and was even wrong in awarding less compensation in favour of the claimant.

6. After he concluded his arguments, when this Court asked him to explain the findings recorded by the tribunal in paragraph Nos. 12 and 13 of its judgement, he started praying for time to verify whether any Cross-Objection or Cross Appeal has been filed or not. I refused to grant any adjournment. It would be unfair on the part of a counsel to pray for an adjournment, after both the parties had finished their arguments and this Court was trying to elucidate certain facts from the parties.

7. The facts floating on the surface of the records would show that the tribunal recorded a finding that the monthly income of the claimant could be Rs.1500=00 per month, the said finding has not been challenged either by filing Cross-Objection or by filing Cross Appeal, under the circumstances, I hold that the monthly income of the deceased could be Rs.1500=00 per month. Agreeing with the arguments of Mr.H.C. Rawal, learned counsel for the appellant, I hold that the entitlement of the claimant - respondent No.1 would be Rs.24,300=00 or

Rs.25,000=00, at best I direct that the appellant would be liable to pay a sum of Rs.25,000=00 to the claimant - respondent No.1 with interest at the rate allowed by the tribunal, the award is reduced by sum of Rs.25,000=00.

8. The appeal is allowed to the extent indicated above, however, with a liberty in favour of the claimant - respondent No.1 that in case it is found that some Cross Objections or some Cross Appeals were filed in this appeal and the same are pending consideration, then, the claimant - respondent No.1 would be entitled to make an application for recall of this order. No costs.

(R.S. GARG, J.)

rafik